

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2068.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	October 20, 2003
DATE OF REPORT:	November 18, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	November 26, 2003

COMPLAINT ISSUES:

Whether the Prairie Heights Community School Corporation and the Northeast Indiana Special Education Cooperative violated:

7-25-4 by failing to follow the procedures for an initial educational evaluation, upon receiving a parent's written request for an evaluation.

FINDINGS OF FACT:

1. The Student is thirteen years old and is eligible for special education and related services due to a learning disability and communication disorder.
2. On December 6, 2002, a Parent/Team Meeting met to discuss the Student's academic difficulties. During the Parent/Team Meeting, the Parent made a verbal request for special education testing and Attention Deficit Disorder (ADD) screening. The Parent's request is confirmed by the written record of the Parent/Team Meeting, but not signed by the Parent.
3. Immediately following the Parent/Team Meeting, a teacher took the Parent to the Principal to inform the Principal of the Parent's verbal request for evaluation. The Principal checked the Student's educational records and, knowing that the Student had been previously evaluated for the particular category of learning disability and did not qualify, the Principal did not initiate a referral for an educational evaluation.
4. The Principal believes that the Parent agreed not to pursue an educational evaluation for a learning disability, at least until the ADD Screening was completed. The Parent denies that an agreement was reached, and the Principal's notes on the Parent/Team Meeting record do not contain any reference to a mutual agreement, express or implied. Neither the School nor the Parent contacted the local special education cooperative.
5. On December 6, 2002, the Principal provided, and the Parent signed, a consent form for ADD Screening. The ADD screening was promptly completed, and the findings were incorporated into a report dated December 17, 2002. The findings were consistent with an attention deficit diagnosis, and the Parent followed up with a physician. A case conference committee (CCC) meeting was not convened.

6. On December 6, 2002, the Parent and the School discussed testing for a learning disability and ADD Screening, and did not discuss a comprehensive evaluation to determine the existence of other possible disabilities. The School did not inform the Parent that the Parent could initiate an educational evaluation by submitting a written request for evaluation; did not provide the special education cooperative's consent form for an educational evaluation upon hearing the Parent's verbal request for an educational evaluation; did not schedule the personal meeting described in 511 IAC 7-25-4; and did not provide a written notice containing the information required by 511 IAC 7-22-2(d), regarding the decision not to initiate an educational evaluation of the Student.
7. On March 31, 2003, the Parent made a written request for a CCC meeting to consider the independent speech/language evaluation that the Parent had obtained at the Parent's expense.
8. On May 16, 2003, the CCC convened, considered the results of both the independent speech/language evaluation and the independent psychological evaluation obtained by the Parent. The CCC reached agreement that the Student was eligible for special education and related services due to a communication disorder. The CCC considered whether the Student was also eligible under the category of other health impairment, but concluded that the independent psychological evaluation was not a written diagnostic statement by a physician, as required by 511 IAC 7-26-12(b)(4). With respect to learning disabilities or other possible areas of exceptionality, the School learned new information from the independent psychological evaluation, and the CCC concluded that additional data was needed to determine the Student's eligibility, as the independent psychological evaluation had concluded only "probable" learning disability.
9. At the conclusion of the CCC meeting on May 16, 2003, the Parent signed the special education cooperative's consent form. On May 19, 2003, the School initiated referral for an educational evaluation of the Student, to provide additional data to determine whether the Student has a learning disability or an emotional disability, or both. An educational evaluation of the Student was conducted during August – September, 2003. On September 26, 2003, the Student's CCC reconvened and determined that the Student's primary disability is a learning disability, with communication disorder as a secondary disability.

CONCLUSIONS:

Under the circumstances described in Findings of Fact #2, #3, #4, and #5, Finding of Fact #6 indicates that the School failed to follow required procedures for refusing to initiate an educational evaluation. Therefore, a violation of 511 IAC 7-25-4 occurred. However, Findings of Fact #7, #8, and #9 indicate that partial corrective action has been taken.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Prairie Heights Community School Corporation and the Northeast Indiana Special Education Cooperative shall inform superintendents, principals, and special education personnel of the required procedures for refusing to initiate an educational evaluation requested by a parent. This information may be provided by memo or during an inservice training session.

Documentation of compliance shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by January 15, 2003.